

### § 245.3

### 7 CFR Ch. II (1–1–06 Edition)

(f-3) *Operating day* means a day that reimbursable meals are offered to eligible students under the National School Lunch Program or School Breakfast Program.

(g) *Reduced price meal* means a meal which meets all of the following criteria: (1) The price shall be less than the full price of the meal; (2) the price shall not exceed 40 cents for a lunch and 30 cents for a breakfast; and (3) neither the child nor any member of his family shall be required to supply an equivalent value in work for the school or the school's food service.

(h) *Service institution* shall have the meaning ascribed to it in part 225 of this chapter.

(i) *School, school food authority*, and other terms and abbreviations used in this part shall have the meanings ascribed to them in part 210 of this chapter.

(j) *Special Assistance Certification and Reimbursement Alternatives* means the three optional alternatives for free and reduced price meal application and claiming procedures in the National School Lunch Program and School Breakfast Program which are available to those School Food Authorities with schools in which at least 80 percent of the enrolled children are eligible for free or reduced price meals, or schools which are currently, or who will be serving all children free meals.

(k) *State Children's Health Insurance Program (CHIP)* means the State medical assistance program under title XXI of the Social Security Act (42 U.S.C. 1397aa *et seq.*).

(l) *TANF* means the State funded program under part A of title IV of the Social Security Act that the Secretary determines complies with standards established by the Secretary that ensure that the standards under the State program are comparable to or more restrictive than those in effect on June 1, 1995. This program is commonly referred to as Temporary Assistance for Needy Families, although States may refer to the program by another name.

(m) *Verification* means confirmation of eligibility for free or reduced price benefits under the National School Lunch Program or School Breakfast Program. Verification shall include confirmation of income eligibility and,

at State or local discretion, may also include confirmation of any other information required in the application which is defined as documentation in § 245.2(a-4). Such verification may be accomplished by examining information provided by the household such as wage stubs, or by other means as specified in § 245.6a(b). However, if a food stamp or TANF case number or a FDPIR case number or other identifier is provided for a child, verification for such child shall only include confirmation that the child is included in a currently certified food stamp, TANF or FDPIR household.

(Secs. 801, 803, 812; Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1753, 1759(a), 1773, 1758))

EDITORIAL NOTE: For FEDERAL REGISTER citations affecting § 245.2, see the List of CFR Sections Affected, which appears in the Finding Aids section of the printed volume and on GPO Access.

### § 245.3 Eligibility standards and criteria.

(a) Each State agency, or FNSRO where applicable, shall by July 1 of each year announce family-size income standards to be used by School Food Authorities of schools under the jurisdiction of such State agency, or FNSRO where applicable, in making eligibility determinations for free or reduced price meals and for free milk. Such family size income standards for free and reduced price meals and for free milk shall be in accordance with Income Eligibility Guidelines published by the Department by notice in the FEDERAL REGISTER.

(b) Each School Food Authority shall establish eligibility criteria for free and reduced price meals and for free milk in conformity with the family-size income standards prescribed by the State agency, or FNSRO where applicable, under paragraph (a) of this section. Such criteria shall:

(1) For all schools under the jurisdiction of the School Food Authority, specify the uniform family-size income criteria to be used for determining eligibility for free and reduced price meals in schools participating in the National School Lunch or School Breakfast Programs and in commodity-only schools, and for determining eligibility for free milk when the School

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Food Authority has chosen to serve free milk in its schools participating in the Special Milk Program; and

(2) Provide that all children from a family meeting family-size income criteria and attending any school under the jurisdiction of the School Food Authority which participates under the National School Lunch Program, School Breakfast Program, Special Milk Program, or is a commodity only school shall be provided the same benefits. The School Food Authority's eligibility criteria shall be a part of the policy statement required under §245.10 and shall be publicly announced in accordance with the provisions of §245.5.

(c) Each School Food Authority shall serve free and reduced price meals or free milk in the respective programs to children eligible under its eligibility criteria. When a child is not a member of a family as defined in §245.2(b), the child shall be considered a family of one. In any school which participates in more than one of the child nutrition programs, eligibility shall be applied uniformly so that eligible children receive the same benefits in each program. If a child transfers from one school to another school under the jurisdiction of the same School Food Authority, his eligibility for free or reduced price meals or for free milk, if previously established, shall be transferred to, and honored by, the receiving school if it participates in the National School Lunch Program, School Breakfast Program, Special Milk Program and the School Food Authority has elected to provide free milk, or is a commodity-only school.

(Sec. 8, Pub. L. 95-627, 92 Stat. 3623 (42 U.S.C. 1758); sec. 5, Pub. L. 95-627, 92 Stat. 3619 (42 U.S.C. 1772); 42 U.S.C. 1785, 1766, 1772, 1773(e), sec. 203, Pub. L. 96-499, 94 Stat. 2599; secs. 807 and 808, Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1772, 1784, 1760; sec. 803, Pub. L. 97-35, 95 Stat. 521-535 (42 U.S.C. 1758))

[Amdt. 8, 40 FR 57207, Dec. 8, 1975; 40 FR 58281, Dec. 16, 1975, as amended by Amdt. 10, 41 FR 28783, July 13, 1976; Amdt. 13, 44 FR 33049, June 8, 1979; 47 FR 31852, July 23, 1982]

### § 245.4 Exceptions for Puerto Rico and the Virgin Islands.

Because the State agencies of Puerto Rico and the Virgin Islands provide free meals or milk to all children in

schools under their jurisdiction, regardless of the economic need of the child's family, they are not required to make individual eligibility determinations or publicly announce eligibility criteria. Instead, such State agencies may use a statistical survey to determine the number of children eligible for free or reduced price meals and milk on which a percentage factor for the withdrawal of special cash assistance funds will be developed subject to the following conditions:

(a) State agencies shall conduct a statistical survey once every three years in accordance with the standards provided by FNS;

(b) State agencies shall submit the survey design to FNS for approval before proceeding with the survey;

(c) State agencies shall conduct the survey and develop the factor for withdrawal between July 1 and December 31 of the first school year of the three-year period;

(d) State agencies shall submit the results of the survey and the factor for fund withdrawal to FNS for approval before any reimbursement may be received under that factor;

(e) State agencies shall keep all material relating to the conduct of the survey and determination of the factor for fund withdrawal in accordance with the record retention requirements in §210.8(e)(14) of this chapter;

(f) Until the results of the triennial statistical survey are available, the factor for fund withdrawal will be based on the most recently established percentages. The Department shall make retroactive adjustments to the States' Letter of Credit, if appropriate, for the year of the survey;

(g) If any school in these States wishes to charge a student for meals, the State agency, School Food Authority and school shall comply with all the applicable provisions of this part and parts 210, 215 and 220 of this chapter.

(Sec. 9, Pub. L. 95-166, 91 Stat. 1336 (42 U.S.C. 1759a); secs. 807 and 808, Pub. L. 97-35, 95 Stat. 521-535, 42 U.S.C. 1772, 1784, 1760; 44 U.S.C. 3506)

[Amdt. 18, 45 FR 52771, Aug. 8, 1980, as amended at 46 FR 51366, Oct. 20, 1981; 47 FR 746, Jan. 7, 1982]